



DAN MORALES  
ATTORNEY GENERAL

Office of the Attorney General  
State of Texas

July 29, 1991

Mr. Larry W. Schenk  
City Attorney  
City of Longview  
P.O. Box 1952  
Longview, Texas 75606-1952

OR91-345

Dear Mr. Schenk:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 12883.

The City of Longview received an open records request for police reports pertaining to a particular suicide that occurred in 1980. You state that the police investigation of the suicide is concluded and that the case file on this matter has been closed. You seek to withhold the requested information pursuant to the common-law privacy aspect of section 3(a)(1) of the Open Records Act, citing Open Records Decision No. 422 (1984) as authority.

Section 3(a)(1) of the act protects "information deemed confidential by law, either Constitutional, statutory, or by judicial decision," including the common-law right to privacy. *Industrial Found. of the South v. Texas Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). Common-law privacy protects information if it is highly intimate or embarrassing, such that its release would be highly objectionable to a reasonable person, *and* it is of no legitimate concern to the public. *Id.* at 683-85.

This office has long held that information that reveals evidence of an individual's extreme emotional or mental distress comes under the protection of the common-law privacy aspect of section 3(a)(1). In Open Records Decision No. 422, this office held that the doctrine of common-law privacy excepts from public disclosure information that would reveal whether a self-inflicted gunshot wound was accidental or intentional. The rationale for that holding was that a reasonable person could conclude that the victim of an intentional self-inflicted gunshot was suffering from extreme emotional distress, and to release only information that reveals the *accidental* nature of a self-inflicted gunshot would, by implication, reveal that all

other self-inflicted injuries demonstrate intent.

Although not made clear in the text of the decision, the records at issue in Open Records Decision No. 422 dealt with a victim who survived a self-inflicted gunshot. The records requested here concern a deceased individual. The rationale in Open Records Decision No. 422 is therefore inapplicable here because the right of privacy lapses upon death. *See* Attorney General Opinion JM-229 (1984) (copy enclosed). On the other hand, this office has identified one small portion of the police records that implicate the privacy interests of a third party; we have marked the information that you may withhold to protect that person's privacy interests. *See id.* The remaining information must be released.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR91-345.

Yours very truly,



Kay H. Guajardo  
Assistant Attorney General  
Opinion Committee

KHG/RWP/lb

Ref.: ID# 12883  
ID# 12892

Enclosures: Attorney General Opinion JM-229  
Marked documents

cc: Thomas J. Vickery  
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